

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

BPMC No. 19-073

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

IN THE MATTER
OF
MARTIN D. FRIED, M.D.

TO: MARTIN D. FRIED, M.D.


The undersigned, Sally Dreslin, M.S., R.N., Executive Deputy Commissioner of Health, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the criminal complaint in the United States of America v. Martin D. Fried, has determined that MARTIN D. FRIED, M.D. (henceforth: "Respondent"), New York license number 176857, has been charged with committing acts that constitute a felony under federal law, and in the Executive Deputy Commissioner's opinion, the Respondent's alleged conduct constitutes an imminent danger to the health of the people. Attached hereto as Appendix A and made a part hereof is Mag. No. 18-6213 (SCM), the United States of America v. Martin D. Fried.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12)(b), that effective immediately, Respondent shall discontinue or refrain from practicing medicine in the State of New York, or discontinue or refrain from practicing in any setting under the authority of Respondent's New York license.

Any practice of medicine in violation of this Order shall constitute
Professional Misconduct within the meaning of N.Y. Educ. Law

§6530(29) and may constitute unauthorized medical practice, a

Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding to be provided to the Respondent at a later date and which will detail allegations of professional medical conduct in an attached Statement of Charges. If at any time the felony charges are dismissed, withdrawn, or reduced to non-felony charges, this Order shall terminate.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
April 1, 2019


Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner of Health
New York State Health Department

Inquiries should be directed to:

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APPENDIX "A"

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**
 :
 v. : Honorable Steven C. Mannion
 :
 MARTIN D. FRIED : Mag. No. 18-6213 (SCM)
 :

I, Stephen Backiel, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the U.S. Drug Enforcement Administration and that this complaint is based on the following facts:

SEE ATTACHMENT B


Special Agent Stephen Backiel
U.S. Drug Enforcement Administration

Sworn to before me and subscribed in my presence,
October 29, 2018 Essex County, New Jersey

HONORABLE STEVEN C. MANNION
UNITED STATES MAGISTRATE JUDGE


Signature of Judicial Officer

ATTACHMENT A

COUNT ONE

(Attempted Distribution of Oxycodone)

On or about July 20, 2018, in Ocean County, in the District of New Jersey and elsewhere, the defendant

MARTIN D. FRIED

did knowingly and intentionally attempt to distribute and possess with intent to distribute a quantity of a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, outside the usual course of professional practice and not for a legitimate medical purpose, contrary to Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

In violation of Title 21, United States Code, Section 846.

COUNT TWO
(Distribution of a Controlled Substance)

From on or about July 18, 2018 through on or about July 20, 2018, in Ocean County, in the District of New Jersey and elsewhere, the defendant,

MARTIN D. FRIED

did knowingly and intentionally distribute and possess with intent to distribute a quantity of a mixture and substance containing a detectable amount of amphetamine sulfate and dextroamphetamine mixed salts, a/k/a Adderall, a Schedule II controlled substance, outside the usual course of professional practice and not for a legitimate medical purpose.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

COUNT THREE
(Distribution of a Controlled Substance)

From on or about July 18, 2018 through on or about July 20, 2018, in Ocean County, in the District of New Jersey and elsewhere, the defendant,

MARTIN D. FRIED

did knowingly and intentionally distribute and possess with intent to distribute a quantity of a mixture and substance containing a detectable amount of alprazolam, a/k/a Xanax, a Schedule IV controlled substance, outside the usual course of professional practice and not for a legitimate medical purpose.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

ATTACHMENT B

I, Stephen Backiel, am a Special Agent with the U.S. Drug Enforcement Administration. I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, and photographs of the evidence. Because this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where statements of others are related herein, they are related in substance and part. All dates and times are approximate.

1. In the early morning hours of on or about July 20, 2018, at approximately 4:12 A.M., police officers from the Toms River Police Department responded to a call regarding a theft in progress at a pharmacy located in or around Toms River, New Jersey ("Pharmacy-1"). Upon arrival, the night supervisor at Pharmacy-1, advised that a male, ("Individual-1"), attempted to steal merchandise from Pharmacy-1.

2. While at Pharmacy-1, defendant MARTIN D. FRIED ("FRIED"), a pediatric gastroenterologist licensed to practice medicine in New Jersey,¹ approached the officers and advised that he helped pay for the merchandise and did not believe Individual-1 was attempting to shoplift. Individual-1, a 31-year old male, stated that he was FRIED's patient.

3. FRIED also informed law enforcement officers that another alleged adult patient, a 35-year old male, ("Individual-2") had just left Pharmacy-1 after being unable to fill a prescription.

4. The investigation revealed that FRIED had driven both Individual-1 and Individual-2 to Pharmacy-1 so that Individual-1 and Individual-2 could fill prescriptions for various controlled substances written by FRIED (the "Prescriptions"). Specifically, Individual-1 was attempting to fill a prescription for approximately 42 tablets of oxycodone 15 mg, a Schedule II controlled substance; and Individual-2 was attempting to fill prescriptions for approximately 90 tablets of amphetamine sulfate and dextroamphetamine mixed salts 30 mg, a/k/a Adderall, a Schedule II controlled substance, and approximately 120 tablets of alprazolam 2 mg, a/k/a "Xanax," a Schedule IV controlled substance. Pharmacy-1 refused to fill the Prescriptions.

5. Later that same morning, at approximately 5:28 A.M., police officers from the Toms River Police Department responded to a call for a disorderly in progress at another pharmacy located in or around Toms River

¹ FRIED owned and was the sole practitioner of Healthy Days, LLC, a medical practice in Ocean, New Jersey, specializing in pediatric gastroenterology and also "nutrition for all ages," "Lyme disease and co-infection," and "genetic/DNA testing."

("Pharmacy-2"). Upon arrival, the officers encountered and questioned FRIED, who was present with Individual-1 and Individual-2. FRIED stated that he recently began seeing Individual-1 and Individual-2 at his practice. FRIED stated that Individual-1 and Individual-2 were "taking advantage of him," requesting FRIED write prescriptions, including oxycodone and alprazolam, for them. FRIED admitted to driving both Individual-1 and Individual-2 to Pharmacy-1 and Pharmacy-2 so that they could fill the prescriptions that he wrote.

6. The investigation revealed that on or about July 20, 2018, Pharmacy-2 did in fact fill the two prescriptions for controlled substances written by FRIED to Individual-2. Specifically, the prescriptions were for approximately 90 tablets of Adderall 30 mg and approximately 120 tablets of alprazolam 2 mg.

7. When questioned, Individual-2 stated that FRIED drove Individual-2 to fill prescriptions for alprazolam and Adderall. Individual-2 stated that s/he was unable to fill the prescriptions at Pharmacy-1, so s/he walked to Pharmacy-2. Individual-2 stated that s/he was told s/he needed additional paperwork to obtain the prescriptions at Pharmacy-2 so s/he contacted FRIED, and FRIED responded to Pharmacy-2 to assist in the transaction.

8. Individual-1 stated that FRIED offered to provide prescriptions to Individual-2 and Individual-1. Individual-1 stated that FRIED never performed a physical examination on him/her. Individual-1 stated that FRIED would give him/her any prescription s/he wanted.

9. Additional investigation revealed that just two days earlier, on or about July 18, 2018, FRIED, Individual-1, and Individual-2 went to another pharmacy in or around Ocean, New Jersey ("Pharmacy-3"). Individual-1 filled at Pharmacy-3 the following prescriptions written by FRIED: approximately 12 tablets of Adderall 30 mg; approximately 90 tablets of alprazolam 2 mg; and approximately 120 tablets of gabapentin 800 mg.² On or about July 19, 2018, Individual-1 received from Pharmacy-3, another 108 tablets of Adderall 30 mg, the balance of the Adderall prescription filled on or about July 18, 2018.

10. Surveillance videos obtained from Pharmacy-3 from on or about July 18, 2018 showed FRIED involved in personally obtaining prescriptions for Individual-1 from the pharmacy staff and handing it directly to Individual-1. After obtaining the prescriptions, Individual-1 raised his/her hands above his/her head in apparent celebration, and then Individual-1 and FRIED embraced.

² Gabapentin is normally used to treat epilepsy and nerve damage-related pain, but it is a known drug of abuse. It is often abused with opioids, such as oxycodone, because it can enhance the euphoria caused by the opioid.

11. Medical records obtained from FRIED for Individual-1 (the "Medical Record") reveals that FRIED created the Medical Record after FRIED's July 20, 2018 contact with law enforcement officers.

12. To date, the investigation has revealed that FRIED prescribed controlled substances to Individual-1 and Individual-2, specifically, oxycodone, Adderall, and alprazolam, outside the usual course of professional practice and not for a legitimate medical purpose.